

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAKE CHARLES DIVISION

KERRY GOINS, individually and as : **DOCKET NO. 05-2054**
administrator of the minor child,
ILESHA GOINS

VS. : **JUDGE MINALDI**

CALVIN FAIRCLOTH, ET AL. : **MAGISTRATE JUDGE WILSON**

REPORT AND RECOMMENDATION

Before the court is plaintiff's motion to remand [doc. # 7].¹ This matter was removed to federal court on the basis of diversity jurisdiction. 28 U.S.C. § 1332. The motion to remand alleges that plaintiff's claims do not exceed the requisite threshold amount for the exercise of diversity jurisdiction (\$75,000+). In support of his motion, plaintiff has signed a stipulation that his damages do not exceed \$75,000. Removing defendants do not oppose remand.²

In light of plaintiff's binding stipulation and the lack of opposition, it is legally certain that the amount in controversy does not exceed the requisite jurisdictional minimum. *DeAguilar v. Boeing Co.*, 47 F.3d 1404 (5th Cir. 1995). Thus, subject matter jurisdiction is lacking and remand is required. 28 U.S.C. § 1447(c). Accordingly,

IT IS RECOMMENDED that plaintiff's motion to remand [doc. # 7] be GRANTED.

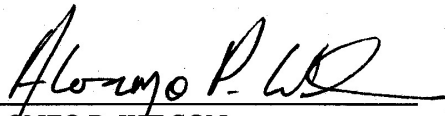
¹ The motion has been referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A).

² Defense counsel so notified court staff by telephone.

Under the provisions of 28 U.S.C. §636(b)(1)(C), the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 25th day of January, 2006.


ALONZO P. WILSON
UNITED STATES MAGISTRATE JUDGE